

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**DIANE MESSER, a/k/a DIANE M. McCUTCHEON,  
and CHARLES MESSER,**

**Plaintiffs,**

**v.**

**FIRST FINANCIAL FEDERAL CREDIT UNION  
OF MARYLAND,**

**Defendant.**

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**CIVIL ACTION  
NO. 11-4144**

**ORDER**

**AND NOW**, this 30th day of July 2012, upon consideration of Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint [Doc. No. 13]; Plaintiffs' Response in Opposition thereto [Doc. No. 20]; Defendant's Reply [Doc. No. 21]; and Plaintiffs' Sur-Reply [Doc. No. 24]; and for the reasons set forth in the accompanying Memorandum Opinion, it is hereby **ORDERED** that Defendant's Motion is **GRANTED in part and DENIED in part**, as follows:

1. Defendant's Motion is **GRANTED** as to Count IV (Intentional Infliction of Emotional Distress); accordingly,

(a) as to Plaintiff Charles Messer, Count IV is **DISMISSED with prejudice**; and

(b) as to Plaintiff Diane Messer, Count IV is **DISMISSED without prejudice**, with leave to amend within twenty-one (21) days of the date of this Order; and

2. Defendant's Motion is **GRANTED** as to Count V (Loss of Consortium), which is **DISMISSED with prejudice**; and

3. Defendant's Motion is **DENIED** as to Counts I-III.

It is so **ORDERED**.

**BY THE COURT:**

/s/ Cynthia M. Rufe

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**CYNTHIA M. RUFÉ, J.**